

REMARKS

Claims 87-95 and 100-109 are pending in the present Application. Claims 87-95 and 109 are withdrawn from consideration. Claim 108 has been amended and new claims 110-118 have been added, leaving Claims 100-108 and 110-118 for consideration upon entry of the present amendment.

Claim 8 has been amended to correct an inadvertent typographical error. Antecedent basis for the amendment is found at least at page 7, lines 18-19 of the Specification as filed. No new matter has been introduced.

Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Information Disclosure Statement

Applicants note that the Examiner has not considered the art submitted in the Information Disclosure Statement dated 6/9/06. Applicants respectfully request that the art submitted in this Information Disclosure Statement be considered and a fully initialed PTO Form A820 be returned to the Applicants.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 100-103 and 105-108 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 5,439,628 to Huang in view of European Patent No. 0 243 206 to Mitsuno et al., and any one of Young (Introduction to Polymers, pages 196, 204), U.S. Patent No. 5,514,315 to Watkins et al., or U.S. Patent No. 4,248,651 to Kojimoto et al. Applicants respectfully traverse this rejection.

In the present Office Action dated October 23, 2007, the Examiner reiterates the prior rejection, stating that Huang teaches the basic process as claimed, i.e., thermoforming (col. 8, ll. 1-5) a filled polypropylene sheet to produce a container “wherein the container has a “rough/coarse surface because of the filler particles effusing from the surface.” (Office Action of 10/23/07) As support for this feature, the Examiner cites column 7, line 35 to column 8, line 5 of Huang, as well as column 6, lines 25-30 of Huang. The Examiner further states that Applicants’ argument of August 1, 2007, that Huang does not teach or suggest a container having a

micronodular surface as set forth in independent Claim 108, was not persuasive. (Office Action of 10/23/07, p. 5)

Applicants respectfully disagree, on the basis that the teaching in Huang regarding the film or sheets having a “rough and coarse” surface is directed to the polypropylene sheets or films produced by the “invented method” disclosed therein. (Col. 7, ll. 47-50). These methods include calendaring. (Abstract). After producing these calendared sheets, the sheets can then optionally be used for thermoforming. (Col. 7, ll. 55-57) Thus, Huang does not disclose a rough or coarse surface in a thermoformed container as set forth in the present claims. Huang only discloses a rough or coarse surface in the sheets that can be used in the process of producing the containers of the present claims.

This distinction is critical because thermoforming involves heating the sheet at a temperature between the softening temperature and the melt temperature of the sheet. Under such conditions, one of ordinary skill in the art would expect any roughness or coarseness in the sheet to be lost. Huang therefore does not disclose or suggest a thermoformed containing having the recited micronodules on at least one surface thereof.

Mitsuno, Young, Watkins, and Kojimoto do not resolve the deficiencies of Huang. As noted in the Applicants’ response dated August 1, 2007, the secondary references do not mention or suggest the claimed micronodular surface. Thus none of these references, alone or in combination, disclose or suggest the claimed container with a micronodular surface comprising at least one side.

Dependent Claim 101 claims a process comprising vacuum forming in a mold controlled to form the micronodular surface on the surface of the container not in contact with the mold surface. As noted above, the references do not disclose a micronodular surface. Moreover, the references do not disclose or suggest a process where a micronodular surface is formed on the surface of the container not in contact with the mold surface. In addition, the Applicants disclose the unexpected observation that in containers manufactured using the disclosed process, the food contact side is textures. (Specification p. 17, lines 11-12). Barring the unexpected observations of the Applicants, one of ordinary skill in the art would not have been prompted to arrive at the claimed process. Therefore, because the references do not inherently or impliedly disclose the

limitations of Claim 101, or provide a reasonable expectation of success that the disclosed process would be provided by a combination of the references, Claim 101 is patentable over Huang in view of Mitsuno, and Young, Watkins or Kojimoto.

Claim 104 stands rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 5,439,628 to Huang in view of European Patent No. 0 243 206 to Mitsuno et al., and any one of Young (Introduction to Polymers, Pages 196, 204) or U.S. Patent No. 5,514,315 to Watkins et al. or U.S. Patent No. 4,248,651 to Kojimoto et al., as applied to claims 98, 100-103 and 105-108 above, and further in view of U.S. Patent No. 5,001,176 to Nakazima. Applicants respectfully traverse this rejection.

The Examiner has reiterated the rejection made in the Office Action dated May 16, 2007, to Claim 104, asserting Nakazima teaches a silane-coupling agent. (Office Action dated October 23, 2007, p. 4). The Examiner states it would have been obvious to employ a coupling agent, as suggested by Nakazima in the process of Huang. (Office Action dated October 23, 2007, p. 4)

The Applicants have disclosed a process for preparing a container that has a micronodular surface. The disclosed micronodular surface gives containers the pleasing appearance and feel of stoneware or a pottery-like look. Nakazima discloses a polyolefin composition, which gives formed articles having improved transparency and odor-emitting properties. Nakazima discloses the polyolefin composition may contain various other additives so long as the additive does not defeat the object of the invention. Applicant respectfully asserts that a pottery-like look is distinctly different than a transparent appearance, and contrary to the objective of Nakazima. Because a pottery-like look would defeat the transparency objective of Nakazima, the Applicant respectfully asserts one of ordinary skill in the art would not have been prompted by Nakazima to consider use of a coupling agent and mica to achieve a pottery-like look as provided by the claimed micronodular surface. Thus, because Nakazima is directed to an objective distinct from that of the Applicants, the Applicants respectfully assert one of ordinary skill would not have been prompted to modify Huang, or Huang in view of Mitsuno, and Young, Watkins or Kojimoto, in view of Nakazima to arrive at the claimed process. Therefore Claim 104 is also non-obvious and patentable over the cited references.

New Claims

New independent Claims 110 contains the same limitations as Claim 108, except that the process is for preparing a container having a first side and a food contact side, wherein the first side is non-micronodular surface and food contact side is micronodular. Support for this claim limitation can be found at least in the specification as originally filed on page 4, lines 2-4 and page 17, lines 9-12. No new matter has been introduced by this amendment.

New claims 111-118 depend from Claim 110, and correspond to claims 100-107. Accordingly no new matter has been added by these claims.

As discussed above, Huang does not teach or suggest a container having a micronodular surface. Huang certainly does not teach thermoforming a sheet or film to produce a container having two different types of surfaces, on micronodular and one non-micronodular. There is further no teaching or suggestion that the food contact surface be the micronodular surface. These deficiencies are not remedied by the other cited references. New claims 110-118 are accordingly patentable over the cited references.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and withdrawal of the objection(s) and rejection(s) and allowance of the case are respectfully requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

CANTOR COLBURN LLP

By /Leah M. Reimer/
Leah M. Reimer
Registration No. 39,341

Date: 23 January 2008
CANTOR COLBURN LLP
Telephone: (860) 286-2929

Docket No.: GPA-0045

Facsimile: (860) 286-0115

Customer No.: 31743